

16 JUL 1958

MEMORANDUM FOR: General Counsel

SUBJECT : S. 385

REFERENCE : Draft Executive Order Designating the Central Intelligence Agency as Excepted from S. 385

1. The Office of Training submits the following reasons for exceptions to the sections of S. 385 identified in the referenced memorandum.

2. The training which is provided for officers and employees of the Central Intelligence Agency is fundamentally an integral part of Agency operations. It is imperative that those officers and employees of the Agency who are in a training status in preparation for sensitive operations maintain a status consistent with the cover and security of the operation for which they are being trained. Therefore, any unauthorized exposure of such personnel or the training activities in which they are engaged would result in a breach of the security and cover arrangements which are necessary to the operations of this Agency.

3. There are several provisions contained in the training act (S. 385) which place the Agency in both a legal and operational dilemma. Section 7, P. L. 110, provides for certain authorities and responsibilities pertaining to the protection of information concerning the foreign intelligence activities of the United States. The following sections of the training act (S. 385) require actions by this Agency which conflict with the provisions of Section 7, P. L. 110:

(a) Section 2(2) S. 385 is in conflict because Section 7, P. L. 110, specifically excludes the Congress of the United States from receiving reports from the Bureau of the Budget which disclose the functions of CIA.

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(b) Section 2(4) S. 385 by implication would give the Civil Service Commission a "need to know" with respect to the sensitive operations of the Central Intelligence Agency if the Commission is to effectively promote and coordinate the training operations of the Agency. If such a "need to know" were established for the Commission, in fact, this would have the result of necessarily curtailing or eliminating training for those officers or employees of the Agency engaged in or projected for sensitive assignments whenever the unauthorized exposure of such personnel or their training activities would jeopardize the operation.

(c) Section 5. Since the training needs and requirements of the Agency are directly related to the functional responsibilities of the operating components, the provision of information to the Civil Service Commission concerning the training needs and requirements of the Agency would of necessity involve providing information concerning the functional activities of CIA.

(d) Section 6. Should the Agency be subjected to the training regulations of the Civil Service Commission, the security of the Agency's training activities would be seriously impaired and the terms of reference specified for the type of regulation to be issued by the Commission in section 6 would pose unacceptable operational and administrative restrictions on the Agency's training effort. For example, section 6 states, "The Commission shall prescribe regulations... (including requirements for appropriate coordination and reasonable uniformity in such training programs and plans of the department)." It would be impracticable and insecure to attempt any degree of uniformity in the Agency's training activities, plans, or programs with programs of training required by other departments of the Government, since no other department of the Government has a mission comparable with that of CIA. For reasons of cover and security, arrangements for the enrollment of Agency personnel in training at Government

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or non-Government facilities cannot be handled in a uniform manner by CIA. Uniformity cannot be achieved in the selection or utilization of training facilities, since a particular facility acceptable to other departments or the Commission might be totally unacceptable to CIA for legitimate reasons of security. Conversely, facilities which are unacceptable to the Commission or other Government agencies may well have a particular operational significance to CIA. This section provides that the Commission shall promulgate regulations which shall cover:

Section 6(2) "the scope and conduct of the programs and plans of each department for such training." As previously pointed out, CIA training is an integral part of clandestine operations and it would not be feasible for CIA to be regulated by the Commission on such matters.

Sections 6(3) and (4) "the selection and assignment for such training" and "the utilization of the employees who have undergone such training." Selection and assignment of personnel in CIA for training or for operational assignments calls for a highly complex determination within CIA and for operational reasons could not be done in accordance with regulations or controls established by the Civil Service Commission.

Section 6(5) "the interchange among the departments of information concerning such training." Any such regulation would clearly violate the "need to know" principle which governs the release of such information by this Agency.

Section 6(7) "the submission by the departments of reports on the results and effects of programs and plans of such training, etc." Here again the submission of reports by CIA concerning its training activities could not be done without violating essential security restrictions which have been imposed to protect the foreign intelligence activities of the United States.

While the other provisions of section 6 are not necessarily in conflict with Section 7, P. L. 110, these sections would impose serious operational or administrative limitations on the Agency's training effort, and CIA should not be subjected to the training regulations of the Civil Service Commission if it is to attain the training objectives consistent with its operational responsibilities.

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(e) Section 7 insofar as it reiterates the requirement that the programs and plan or plans of the Agency shall conform to the regulations prescribed by the Commission under section 6 of this act.

(f) Section 8. This section of the act provides, among other things, for the utilization of the training program of Government facilities under the jurisdiction or control of other departments and agencies. Since the Agency's training programs cover methods and techniques peculiar to intelligence operations, to authorize by law that other agencies might utilize CIA's training programs would clearly violate the "need to know" principle and conflict with the responsibilities of the Agency to protect the unauthorized disclosure of information pertaining to the foreign intelligence activities of the United States.

(g) Both sections 9b and 9c are in conflict with the provisions of Section 7, P. L. 110, for different reasons. Sound security practices followed by CIA dictate the necessity for careful compartmentation within the Agency, and such practices would preclude the Agency from carrying out the provisions of section 9b. Section 9c requires that each department shall issue regulations to implement the regulations of the Commission. As delineated under section 6(a)(8), as previously discussed, the Agency should not be subjected to the provisions of any of the Commission's training regulations, and there is no apparent reason why CIA should modify its present practices with respect to payment and reimbursement of training expenses since these practices are within the law and have satisfactorily met the standards of the Bureau of the Budget.

(h) Sections 15, 16, and 18 are all in conflict with the provisions of Section 7, P. L. 110, in that a review by the Commission of the operations, activities, and related transactions of each department in connection with the programs or plans of such department for the training of its employees; or the collection of information with respect to training programs, plans, and methods

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in and outside the Government; or the requirement that each department shall annually prepare and submit to the Commission reports on the programs and plans for the training of employees, etc. all impinge upon the authority and responsibility of the Director of Central Intelligence to protect such information, as it pertains to the foreign intelligence activities of the United States. The development of such information concerning the Agency's training activities for use by the Commission would of necessity entail the unauthorized disclosure of information concerning the organization, functions, and details concerning personnel employed by CIA.

4. The limitations on training of employees through non-Government facilities imposed by section 12 of S. 385 would be totally impracticable from the standpoint of the Agency's training needs and requirements. The imposition of a limitation regarding the number of man years of training to be accomplished by CIA in any Fiscal Year is an artificial limitation and should not be a determining factor for an agency with as varied and complex a mission as that which has been levied on this Agency. Further, the other limitations of this section would curtail or eliminate any extensive language training in such languages as Russian, Chinese, Japanese, or others for which more than a year's study is required. Therefore, CIA should be excepted from this section of the act.

5. Section 14. Since it is within the mission and purview of CIA to penetrate the activities of the international Communist movement, it makes little sense to restrict the Agency by law from carrying out one of its primary missions. Therefore, the Agency should be excepted from the section which prohibits training through facilities advocating overthrow of the Government by force or violence.

6. No effort has been made to comment on sections 19d or 23a since there is no substantive reason of a training nature for exception to these sections.

SIGNED

MATTHEW BAIRD
Director of Training

Attachments (2)

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